

(HSPD)–3 defines a five-tiered system for setting threat levels. We intend to implement Maritime Security (MARSEC) levels, which directly correspond to security levels as discussed in the SOLAS amendments and the ISPS Code. The MARSEC levels will be linked to the HSAS, as follows, to serve as the maritime sector’s tool for communicating risk.

Homeland Security Advisory System (HSAS)

Low: Green MARSEC Level 1.

Guarded: Blue

Elevated: Yellow

High: Orange MARSEC Level 2.

Severe: Red MARSEC Level 3.

We intend to communicate these MARSEC levels to our vessels and ports using such methods as Broadcast Notice to Mariners, community public alert systems, fax and email alert lists, or other similar methods, and intend that these communication processes be addressed in the port security plan. To meet the SOLAS requirement to have a point of contact through which vessels and facilities can request advice or assistance or report any security concerns (chapter XI–2, regulation 7), we anticipate using the toll-free phone number of our National Response Center or a regional toll-free number as coordinated with other agencies. This number and point of contact information would be published in the Coast Pilot, on Web sites, and in other public information formats.

- From a port perspective, would these communication processes meet your needs?

Why or why not?

Yes, except for times of time sensitive communication needs, when a more direct/secure channel to the terminals may be required,

- From a vessel perspective, would these communication processes meet your needs?

Why or why not?

Add regular phone numbers to the emergency contact lists in addition to the toll free numbers. Toll free numbers are difficult & sometimes impossible to reach over a satellite phone.

- Do you believe the Coast Guard should delegate its authority to an RSO keeping in mind the limitations in the ISPS Code (part A, section 4.3)?

Instead of “should”, the Coast Guard “could” delegate the authority, if logistics presented that option.

- Do you believe there should be additional qualification and competency requirements to those listed in the ISPS Code part B, paragraph 4.5 for RSOs?

No

- Should the Coast Guard formalize professional standards for companies or organizations that seek to do business providing guidance on vessel and facility security assessments and plans?

Yes

- Should the Coast Guard vet these organizations or are you aware of an alternative quality standard that should be associated with them?

CG should vet them

The Coast Guard would consider allowing a company that operates a number of similar vessels and terminals, to develop a master plan provided all aspects of the operation are addressed in lieu of individual plans as provided for in SOLAS chapter XI–2, regulation

11 and 12. Provisions for the submission of requests for the Coast Guard to consider alternatives or equivalencies will be similar to that already permitted in 46 CFR Subchapters, for example 46 CFR 30.15 or 70.15.

- Do you anticipate that your organization would request an alternative or equivalency? If so, why?

Yes, depending on the prescribed CG case-by-case solution(s), local environments may offer alternatives, in the spirit of referenced 46CFR 30.15 and 70.15.

- Do you believe the submission format proposed by the Coast Guard is appropriate? *??what format?? The submission of plans that cover multiple, similar terminals or vessels rather than the submission of individual plans should be encouraged.*
- Do you know of an industry standard that may be considered equivalent (or could be equivalent with revision) to the requirements of the SOLAS amendments and the ISPS Code?

No

- If an industry standard were available, would you consider implementing it? If so, why?

Yes, self regulation of industry can be equally effective and sometimes be better tailored to industry specific circumstances.

- During what operations or security levels do you believe a DoS (Declaration of Security) would be appropriate to facilitate coordination of security measures between a facility and a vessel?

When MARSEC II or higher is in force for either the vessel or the port. Consideration should also be given to a different standard for using a DoS in domestic liner services.

- What format, either regulation or guidance, would you prefer to assist you in developing your vessel security plan to address DoSs?

We question the need for DoSs for domestic liner vessels, particularly under MARSEC I and II. Our vessels pose no more threat based on their port rotation than does interstate trucking.

- Do you believe that a SSI classification will be sufficient? If not, why?

Yes

- Do you have a suggestion for an alternative way to protect this information yet allow approvals and review?

No

- Who do you believe should be involved in the Port Security Committees?

Broad representation from local stakeholders, i.e. industry and local government, together with federal agencies and the CG.

- Do you have a suggestion for how to ensure the involvement of the affected community listed in the section titled “Who should attend the public meetings?” of the notice?

CG could make the approval of the local PSP contingent upon local communities’ written and public commitment to the PSC. PSP non approval could trigger CG restrictions or additional security requirements on waterborne commercial activities in the respective port in order negate the increased security risk stemming from a non approved PSP.

- Do you believe that your Port Security Committee, as described in the NVIC and above, is able to provide enough experience and expertise to develop PSAs? If no, why?

Yes for development. Assessment of facilities needs to be handled by a much smaller and qualified nucleus of the committee.

- Does your port currently have an assessment that you believe could be used for

a PSA?

We are not aware of such an assessment that has been completed. Were one available for broader use it would be beneficial.

- Do you believe a system of waterway and facility restrictions pre-designated in regulations or other means (such as a Coast Pilot) would assist in your compliance with security requirements?

Yes

- Do you have any suggestions of other ways to restrict or control activities within the port area at higher security levels?

No

11. Port security training and exercises.

Part A, section 18 and part B, paragraphs 18.1 through 18.6 of the ISPS Code detail training, drills, and exercise requirements for port facilities. Training requirements for Port personnel would also have to be included in the Port Security Plan. At a minimum, facilities will have to ensure that security personnel receive appropriate training, consistent with part B of the ISPS Code, to ensure that they can carry out their assigned responsibilities. This includes, where appropriate, guidance on firearms safety. Drill requirements mandated for port security will be met in conjunction with drills for facility plans on a quarterly basis.

- Under this scheme, would you participate in a Port Security Plan exercise?

Yes.

- Do you have a suggestion on a type of Port Security Plan exercise other than those listed in Part B, paragraph 18.6?

No

- Do you have a port personnel security training program or suggestions on training guidance for safety and security personnel?

Under development

12. Incorporation by Reference. The Coast Guard is considering accepting national, State, and industry security standards to meet certain security requirement(s), as appropriate, such as a vessel security plan that incorporates the use of motion detection equipment that meets an accepted national standard.

- Do you know of a national, State, or industry standard that could be used in the marine environment?

No

- If a national, State, or industry standard was available, would you consider implementing it? If so, why?

Yes, self regulation of industry, including standards, can be equally effective and sometimes be better tailored to industry specific circumstances. Existing national or State standards may be longer in use and may have gone through several shakedown exercises

13. Obligations of the company. The obligations and specific requirements of companies are discussed in SOLAS amendments (regulation 4 and 5) and the ISPS Code (part A, section 6 and part B, paragraphs 6.1 through 6.8). The Coast Guard would require Vessel Security Plans (VSPs) to describe how the company will meet its obligations and requirements.

- Do you believe that this adequately addresses the obligations and specific requirements of a company? If no, why?

Yes.

Does the term “withdrawn from service” in Part B 6.6 apply to vessel lay ups?

- Do you have a suggestion for how to ensure that companies meet these obligations and requirements?

Random inspections together with USCG boardings and scaled penalties for first time and repeat offenders. (three strikes and you’re out)

- What should the obligations of towing companies be with respect to the responsibility for barges?

Adhere to the same requirements

- Do you believe that the application of the requirements in part A, section 7–13 of the ISPS Code for the vessels indicated in the section titled “Who should attend the public meetings?” is appropriate? If not, why?

Yes

- Do you believe these security measures should apply to other vessels, not already listed?

No

- Do you believe that these activities and protective measures adequately address the security of a vessel? If no, why?

Yes

- Do you have a suggestion for appropriate security measures that a vessel can take to meet these requirements that are not already listed in part B, paragraphs 9.1 through 9.49?

No

- Do you have any suggestions on how to best conduct a VSA and review results? Is there a current practice to meet this requirement?

No

- For vessels on domestic voyages, are there any appropriate alternatives to a VSA that could be considered?

Due to the greatly reduced external threat level on a domestic voyage, a scaled down version could be developed that perhaps tracks closely to current requirements under the USCS Super Carrier Agreement Initiative and Customs –Trade Partnership Against Terrorism.

16. Vessel Security Plan (VSP)

Requirement. The ISPS Code part A, section 9, and part B, paragraphs 9.1 through 9.53, as well as the MTSA (46 U.S.C. sections 70103 and 70104), require that VSPs be developed, taking into consideration the VSA, make provisions for the three MARSEC Levels, and be reviewed and updated. The Coast Guard’s requirements would incorporate all of these elements and would also provide an outline that the VSP would follow or be cross-referenced using a similar approach as done in 33 CFR 155.1030.

- Do you have any suggestions on additional items the VSP should address?

No

- Do you have a suggestion or a best practice to meet this VSP requirement?

No

- Would you find an outline a valuable aid to meeting these requirements? If not, why?

Yes

17. Submission of Vessel Security Plans for approval.

The Coast Guard would approve all non foreign VSPs at the Marine Safety Center or at the COTP level, depending on the class of vessel. The submission format would be similar to that already required in 33 CFR 120.305. In addition, for efficiency and timeliness, the Coast Guard is considering alternative methods of Coast Guard approval for VSPs for certain vessels that operate on domestic voyages. One possible alternative includes Coast Guard approval of a unified or corporate plan that would be implemented on a similarly situated fleet of vessels in common ownership. Another alternative could include verification of implementation of a pre-approved security plan for a particular segment of industry.

- Do you have suggestions on how these approvals could be streamlined? Is there an alternative process?

Jones Act carriers could all be classified together as a group and be subject to and submit their VSA/VSPs based on a to be developed Jones Act Trade format.

- Do you believe the submission format proposed by the Coast Guard is appropriate?

I cannot find the format

- Do you believe that additional security requirements are needed for certain vessel types (passenger vessels)? If so, why and what would those requirements be?

Unable to comment competently for passenger vessels

- Do you have a suggestion or best practice related to recordkeeping you believe the Coast Guard should require?

Records to be kept at company designated center and onboard each vessel for vessel specific training. Records should be allowed to be kept in electronic format.

- Do you wish the Coast Guard to prescribe a format for these records?

In terms of content, yes, not the line by line format

- Do you believe the Coast Guard should require CSOs to attend training?

Yes

- Do you believe Company certification is appropriate or do you have a suggestion for an alternate verification for the CSO qualifications?

Company cert is sufficient if requirements are prescribed by CG

- Do you believe proof of participation in annual exercises should be retained for 2 years? If not, how long? Why?

2 years is reasonable

- Do you believe the Coast Guard should require VSOs to attend formal training?

No, company training from qualified instructors on specified topics will suffice.

- Do you believe Company certification is appropriate or do you have a suggestion for an alternate verification for the VSO qualifications?

Company cert is appropriate

- Do you have any suggestions for certain classes of vessels being allowed an alternative to a VSO? If so, how or who would you make responsible for the VSO duties?

Not as long as the VSO can be added to duties of an existing officer

- Do you believe the Coast Guard should require vessel personnel to attend formal training?

No, incorporate into regular scheduled vessel readiness drills on safety and security.

- Do you believe prescribing the format for training records would assist you in meeting these requirements?

No, a general outline of required data will suffice

23. Certification for vessels.

Compliance with regulations for domestic vessels will be verified during issuance and renewal of Certification of Inspection.

Issuance or endorsement of the Certificate of Inspection (COI) would be contingent upon a vessel's compliance with these regulations.

- Do you have any other suggestions for verification and certification that vessels comply with security regulations?

There should be close coordination with Class societies doing CG inspection work under the ACP (Alternative Compliance Program) so that they can & will do security inspections as part of their normal & regulatory survey work. For ships in the ACP there should not be any need for separate, CG security inspections except in the normal oversight role the CG plays in the ACP now.

24. The Coast Guard is considering accepting national, State, and industry security standards to meet certain security requirement(s), as appropriate, e.g., a facility security plan that incorporates lighting or fencing equipment that meets an accepted national standard.

- Do you know of a national, state, and industry standard that could be used in the marine environment?

There are standards for many items. For example, the fence standards have been established by both the U. S. Military and the fencing industry itself. What would need to be developed based on the criticality of the facility, would be probability of detection ratios that would cover both threshold acceptance and desired objective level.

For access control systems, e.g. the standard is not so much with the system but with the way the systems operate. For example, you may establish levels of identification for your project. This criterion would again be based on the facility, the criticality of the asset, and the vulnerabilities. These levels can be set for both pedestrian and vehicle access measures. The performance criteria can be obtained from individual manufacturers of access systems and would include, but not be limited to things like the identification probabilities required for a particular number of personnel addressing the system at one time. (5000 addresses/3 seconds/0.999 identification objective)

Lighting standards can be obtained from the Illumination Engineering Society or IES. The amount and type of light would be dependent upon the application and if cameras are used, the type of camera. Most people in the industry are moving away from low pressure sodium for surveillance lighting due to the use of color exterior camera units being used for surveillance.

- If a national, state, and industry standard were available, would you consider implementing it? If so, why?

Yes, it has likely been tested and updated

- Do you believe that the application of the requirements in part A, section 14–18 of the ISPS Code for the facilities indicated in the section titled “Who should attend the public meetings?” is appropriate? If not, why?

Yes

- Do you believe these security measures should apply to other facilities, not already listed?

Determination needs to be based on CG goal of preventing unauthorized access from ship to shore and vice versa. If facility is on port property but does not have waterfront access, e.g. container depot or warehouse, it could be exempt

- Do you believe that these activities and protective measures adequately address the security of a facility? If no, why?

Yes

- Do you have a suggestion for appropriate security measures that a facility can take to meet these requirements that are not already listed in part B, paragraphs 16.1 through 16.63?

No

- Do you have any suggestions on how to best conduct a FSA and review the results? Is there a current practice to meet this requirement?

No

- Are there any appropriate alternatives to a FSA that could be considered?

No

27. Facility Security Plans. The ISPS Code parts A and B, section 16, as well as the MTSA (46 U.S.C. sections 70103 and 70104), require that FSPs be developed taking into consideration the facility security assessment, make provisions for the three MARSEC Levels, and be reviewed and updated. The Coast Guard is considering requirements that incorporate all of these requirements and also would provide an outline for the FSP. The outline would follow or be cross-referenced using a similar approach as done in 33 CFR part 155.1030.

- Do you have any suggestions on additional items the FSP should address?

No

- Do you have a suggestion or a best practice to meet this FSP requirement?

Do government buildings have existing security plans that could be used as benchmarks?

- Would you find an outline a valuable aid to meeting these requirements? If not, why?

Yes

28. Submission of Facility Security Plans for approval. The ISPS Code (part A, section 16) requires facilities to develop and maintain a facility security plan (FSP) that is approved by the Contracting Government in whose territory the facility is located. The Coast Guard intends to review and approve FSPs at the COTP level. The submission format would be similar to that already required in 33 CFR 120.305. The Coast Guard is considering the submission of a single FSP for companies that own and operate both the facility and vessels that call on that facility.

- Do you have suggestions on how these approvals could be streamlined or an alternative process?

Jones Act Carriers could be allowed to develop their own industry specific PSP/VSP and implement as a group, reducing the amount of review and follow-up work for the CG.

- Do you believe the submission format proposed by the Coast Guard is appropriate?

Have not been able to find it

29. Facility Security Recordkeeping.

- Do you have a suggestion or best practice related to recordkeeping you believe the Coast Guard should require?

Records need to be kept in the local office with a copy at corp HQ for easy access.

Records need to reflect the periodic implementation and testing/review of the various facets of the PSP. Records should be allowed to be kept in electronic format.

- Do you wish the Coast Guard to prescribe a format for these records?

Only in terms of general content (“must contain...”)

- Do you believe the Coast Guard should require FSOs to attend training?

Yes

Actually, under “General Security Provisions, 30. Facility Security Officer”, the term of Facility Security Officer (FSO) appears misapplied in the context of the proposed regulations. Parts A 17.2 and B 17.1-2 address the Port Facility Security Officer’s (PFSO) duties. The CG has stated that the COTP will in each case be the PFSO. Since ‘30. General Security Provisions’ addresses the private companies’ facility security officer position, this needs to be untangled.

- Do you believe Company certification is appropriate or do you have a suggestion for an alternate verification for the FSO qualifications?

Company certification for a prescribed training regiment is appropriate.

- Would there be a case where a FSO may perform their duties for more than one facility?

Yes, if the facilities are separate but only a short distance apart and could be reached by an individual in a matter of minutes, e.g. separate container yards for the same company within a port

- Do you believe proof of participation in annual exercises should be retained for 2 years? If not, how long? Why?

Two years appears reasonable

- Do you believe the Coast Guard should require facility personnel to attend training?

Yes, company sponsored awareness training

- Do you believe prescribing the format for training records would assist you in meeting these requirements?

No, a general description of the data to be retained will suffice

- Do you have any suggestions for verification and certification that facilities comply with security regulations?

The approved FSP with the companies’ statement of compliance could serve as certification, with annual CG inspection of both records and physical location to obtain renewal. Random interim inspections could be a CG option at CG discretion to discourage ‘short term compliance peaking’.

- Do you believe the Coast Guard should allow companies to certify their facilities?

No, the CG approved FSP is the trigger for initial acceptance/certification, which would include the company’s written commitment to either having all listed measures in place, or to come into compliance within an agreed to time span. Recertification could be done by company with CG audits to ensure compliance. This would lessen long term workload of CG

33. Permanent hull marking requirement.

At this time, the Coast Guard does not intend to extend the application of this requirement to vessels limited to domestic voyages.

- Do you believe the Coast Guard should extend this requirement to vessels limited to domestic voyages? If so, why?

No

34. Continuous Synopsis Record

At this time, the Coast Guard does not intend to extend the application of this requirement to vessels limited to domestic voyages.

- Do you believe the Coast Guard should extend this requirement to vessels limited to domestic voyages? If so, why?

No

35. Security alert system requirement. The Coast Guard is considering applying the requirement to vessels limited to domestic voyages that are engaged in the transport of certain dangerous cargos.

- Do you believe this requirement would benefit vessels limited to domestic voyages engaged in the transport of certain dangerous cargos?

Yes

- Do you believe the Coast Guard should extend this requirement to other vessels limited to domestic voyages? If so, why?

Yes, US waters, although safer than some others, are not without potential threats from terrorists or pirates. Additionally the alarm could serve a safety function facilitating notification in the event of an incident.

37. Seafarers' identification criteria requirements. The U.S. intends to await the outcome of the June 2003 ILO conference prior to developing further seafarer identification domestic policy.

In addition to the above, the MTSA (46 U.S.C. section 70105) requires the Secretary to develop and implement a Transportation Security Card to control access to secure areas on a vessel or facility. The U.S. is moving this requirement forward through its work on a Transportation Worker Identification Credential System (TWIC).

Recognizing that the implementation of the TWIC and the ILO efforts on seafarers identification involve substantial negotiation and development, the Coast Guard therefore intends to continue its use of the criteria it set out in its clarification of regulations notice entitled "Maritime Identification Credentials" published in the Federal Register (67 FR 51082, August 7, 2002).

- Do you believe the Coast Guard should amend its policy notice to capture additional forms of identification? If so, why?

No

- Having reviewed the SOLAS amendments and the ISPS Code, what additional information do you believe should be provided by vessels prior to entering our ports?

None

39. Foreign Port Assessments. The Coast Guard would appreciate public comment on the following:

- Should the Coast Guard accept approval of foreign port facility security plans as a preliminary indication that the foreign port is maintaining effective antiterrorism measures?

Yes, after ascertaining that the flag states' security reviews and enforcement measures are meeting CG standard. (Would Nigeria's certification of Lagos put your mind at ease?)

- What factors do you believe the Coast Guard should consider in assessing the effectiveness of antiterrorism measures at foreign ports?

On site visits

40. Automatic Identification System (AIS) requirements.

Because recent events indicate that smaller vessels may be used as weapons against maritime transportation, the Coast Guard is requesting limited public comment related to the MTSA requirements as follows:

- Should any of the vessels listed in the MTSA be exempted from carrying AIS because no security benefit would be derived from such a requirement?

If all vessel types including smaller ones (<500 tons) can be used as weapons, then excluding any type vessel by definition raises the threat potential. In the context of AIS, its assigned role in reducing the threat and the advantage gained by having its information available needs to be compared against its cost of installation. What happens in case of a vessel with (deliberately or not) disabled AIS?

- Beyond the SOLAS requirements and the vessels specifically listed in the MTSA, what other vessels should be required to carry AIS for security purposes?

None

- Are there any particular navigable waters of the U.S. where the AIS carriage requirement should be waived because no security benefit would be derived from the requirement?

No

Preliminary Cost Analysis

The Coast Guard is seeking public comment on the following assumptions used in the preliminary cost analysis:

- The loaded cost of a full-time employee designated to be the Company Security Officer or a Facility Security Officer would be \$150,000 per year.

OK

- Some vessel and facility owners would designate the Company Security Officer and Facility Security Officer duties to an existing employee, and these collateral duties would take about 25 percent of the employee's time.

OK

- Security functions aboard vessels would not require additional manning.

Agree

- Security functions for facilities would require additional security guards with a loaded rate of \$40,000 per year.

OK

- The types of equipment vessels or facilities would install are an accurate representation of the equipment needs owners and operators can expect to face.

OK

In addition, we are seeking public comment on the costs vessel and facility owners or operators would incur in the event MARSEC levels 2 or 3 are implemented.

Facilities: Vessel crew fatigue leading to mandatory time off leading to undermanned workstations, cost of waterside security, extra guards, reduced productivity up to complete shut down in gate processing, terminal activity (mounting/grounding/parking), and vessel stevedoring, resulting in increased personnel cost and potential expediting cost to get freight to destination, plus lost revenues from terminal client activity and reduced freight.

Finally, we are seeking public comment on how these requirements will economically impact small businesses, Indian tribal governments, as well as comment on anticipated energy impacts. *N/A*